

AMENDED IN SENATE APRIL 1, 2004

SENATE BILL

No. 1908

Introduced by Senator Sher

March 8, 2004

An act to amend ~~Section 4584~~ *Sections 4290 and 4584* of the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1908, as amended, Sher. ~~Timber harvesting plans: exemptions~~
Forestry and fire protection.

Existing law requires the Department of Forestry and Fire Protection to adopt minimum fire safety standards for construction approved within state responsibility areas. Existing law also provides that, as an integral part of these fire safety standards, the State Fire Marshal has the authority to adopt regulations for roof openings and openings into attic areas of buildings, as specified.

This bill would conform these requirements to recently enacted provisions that require the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to propose fire protection building standards for roofs, exterior walls, and structure projections, as specified.

Existing law authorizes the State Board of Forestry and Fire Protection, upon a determination that the exemption is consistent with the purposes of the Z'berg-Nejedly Forest Practices Act of 1973, to exempt from those provisions of that act, any person engaged in forest management whose activities are limited to, among other things, the cutting or removal of trees in compliance with specified laws that eliminate the vertical continuity of vegetative fuels and the horizontal

continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak for a distance of not more than 150 feet on each side from an approved and legally permitted structure that complies with the California Building Code.

This bill would include in that exemption a person who owns, leases, operates, or maintains an occupied dwelling or structure on land with a very high fire hazard severity zone, and is engaged in forest management activities who is in compliance with a specified law regulating fire prevention maintenance activities in specified areas or lands around that structure.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 4290 of the Public Resources Code is*
2 *amended to read:*
3 4290. (a) The board shall adopt regulations implementing
4 minimum fire safety standards related to defensible space ~~which~~
5 *that* are applicable to state responsibility area lands under the
6 authority of the department. These regulations apply to the
7 perimeters and access to all residential, commercial, and industrial
8 building construction within state responsibility areas approved
9 after January 1, 1991. The board may not adopt building standards,
10 as defined in Section 18909 of the Health and Safety Code, under
11 the authority of this section. As an integral part of fire safety
12 standards, the State Fire Marshal ~~has the authority to adopt~~
13 ~~regulations for roof coverings and openings into the attic areas of~~
14 ~~buildings,~~ *in consultation with the director and the Director of*
15 *Housing and Community Development, is required to propose fire*
16 *protection building standards for roofs, exterior walls, and*
17 *structure projections, as specified in Section 13108.5 of the Health*
18 *and Safety Code. The regulations apply to the placement of mobile*
19 *homes as defined by National Fire Protection Association*
20 *standards. These regulations do not apply where an application for*
21 *a building permit was filed prior to January 1, 1991, or to parcel*
22 *or tentative maps or other developments approved prior to January*
23 *1, 1991, if the final map for the tentative map is approved within*
24 *the time prescribed by the local ordinance. The regulations shall*
25 *include all of the following:*



- 1 (1) Road standards for fire equipment access.
- 2 (2) Standards for signs identifying streets, roads, and buildings.
- 3 (3) Minimum private water supply reserves for emergency fire
- 4 use.

- 5 (4) Fuel breaks and greenbelts.

6 (b) These regulations do not supersede local regulations ~~which~~
7 *that* equal or exceed minimum regulations adopted by the state.

8 *SEC. 2.* Section 4584 of the Public Resources Code is
9 amended to read:

10 4584. Upon determining that the exemption is consistent with
11 the purposes of this chapter, the board may exempt from this
12 chapter or portions thereof, any person engaged in forest
13 management whose activities are limited to any of the following:

14 (a) The cutting or removal of trees for the purpose of
15 constructing or maintaining a right-of-way for utility lines.

16 (b) The planting, growing, nurturing, shaping, shearing,
17 removal, or harvest of immature trees for Christmas trees or other
18 ornamental purposes or minor forest products, including
19 fuelwood.

20 (c) The cutting or removal of dead, dying, or diseased trees of
21 any size.

22 (d) Site preparation.

23 (e) Maintenance of drainage facilities and soil stabilization
24 treatments.

25 (f) Timber operations on land managed by the Department of
26 Parks and Recreation.

27 (g) (1) The one-time conversion of less than three acres to a
28 nontimber use. No person, whether acting as an individual or as a
29 member of a partnership, or as an officer or employee of a
30 corporation or other legal entity, may obtain more than one
31 exemption pursuant to this subdivision in a five-year period. If a
32 partnership has as a member, or if a corporation or any other legal
33 entity has as an officer or employee, a person who has received this
34 exemption within the past five years, whether as an individual or
35 as a member of a partnership, or as an officer or employee of a
36 corporation or other legal entity, then that partnership,
37 corporation, or other legal entity is not eligible for this exemption.
38 “Person,” for purposes of this subdivision, means an individual,
39 partnership, corporation, or any other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that become effective and operative on or before July 1, 2002, and do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption under this subdivision to expire if there is any change in timberland ownership. The person who originally submitted an application for an exemption under this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

(iv) The board may adopt regulations allowing a waiver of the five-year limitation described in paragraph (1) upon finding that the imposition of the five-year limitation would impose an undue hardship on the applicant for the exemption. The board may adopt a process for an appeal of a denial of a waiver.

(B) The application form for the exemption pursuant to paragraph (1) shall prominently advise the public that violations of the conversion exemption, including conversions applied for in the name of someone other than the person or entity implementing the conversion in bona fide good faith, is a violation of this chapter and penalties may accrue up to ten thousand dollars (\$10,000) for each violation pursuant to Article 8 (commencing with Section 4601).

(h) Easements granted by a right-of-way construction agreement administered by the federal government if any timber sales and operations within or affecting these areas are reviewed and conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(i) The cutting, removal, or sale of timber or other solid wood forest products from the species *Taxus brevifolia* (Pacific yew), provided that the known locations of any stands of this species three inches and larger in diameter at breast height are identified

1 in the exemption notice submitted to the department. Nothing in
2 this subdivision is intended to authorize the peeling of bark from,
3 or the cutting or removal of, *Taxus brevifolia* within a watercourse
4 and lake protection zone, special treatment area, buffer zone, or
5 other area where timber harvesting is prohibited or otherwise
6 restricted pursuant to board rules.

7 (j) (1) The cutting or removal of trees in compliance with
8 Section 51182 of the Government Code, and Sections 4290 and
9 4291, which eliminates the vertical continuity of vegetative fuels
10 and the horizontal continuity of tree crowns for the purpose of
11 reducing flammable materials and maintaining a fuelbreak for a
12 distance of not more than 150 feet on each side from an approved
13 and legally permitted structure that complies with the California
14 Building Code, when that cutting or removal is conducted in
15 compliance with this subdivision. For purposes of this
16 subdivision, an “approved and legally permitted structure”
17 includes only structures that are designed for human occupancy
18 and garages, barns, stables, and structures used to enclose fuel
19 tanks.

20 (2) (A) The cutting or removal of trees pursuant to this
21 subdivision shall be limited to cutting or removal that will result
22 in a reduction in the rate of fire spread, fire duration and intensity,
23 fuel ignitability, or ignition of the tree crowns and shall be in
24 accordance with any regulations adopted by the board pursuant to
25 this section.

26 (B) Trees may not be cut or removed pursuant to this
27 subdivision by the clearcutting regeneration method, by the seed
28 tree removal step of the seed tree regeneration method, or by the
29 shelterwood removal step of the shelterwood regeneration
30 method.

31 (3) (A) Surface fuels, including logging slash and debris, low
32 brush, and deadwood, that could promote the spread of wildfire
33 shall be chipped, burned, or otherwise removed from all areas of
34 timber operations within 45 days from the date of commencement
35 of timber operations pursuant to this subdivision.

36 (B) (i) All surface fuels that are not chipped, burned, or
37 otherwise removed from all areas of timber operations within 45
38 days from the date of commencement of timber operations may be
39 determined to be a nuisance and subject to abatement by the
40 department or the city or county having jurisdiction.

1 (ii) The costs incurred by the department, city, or county, as the
2 case may be, to abate the nuisance upon any parcel of land subject
3 to the timber operations, including, but not limited to,
4 investigation, boundary determination, measurement, and other
5 related costs, may be recovered by special assessment and lien
6 against the parcel of land by the department, city, or county. The
7 assessment may be collected at the same time and in the same
8 manner as ordinary ad valorem taxes, and shall be subject to the
9 same penalties and the same procedure and sale in case of
10 delinquency as is provided for ad valorem taxes.

11 (4) All timber operations conducted pursuant to this
12 subdivision shall conform to applicable city or county general
13 plans, city or county implementing ordinances, and city or county
14 zoning ordinances. Nothing in this paragraph is intended to
15 authorize the cutting, removal, or sale of timber or other solid
16 wood forest products within an area where timber harvesting is
17 prohibited or otherwise restricted pursuant to the rules or
18 regulations adopted by the board.

19 (5) (A) The board shall adopt regulations, initially as
20 emergency regulations in accordance with subparagraph (B), that
21 the board considers necessary to implement and to obtain
22 compliance with this subdivision.

23 (B) The emergency regulations adopted pursuant to
24 subparagraph (A) shall be adopted in accordance with the
25 Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code). The adoption of emergency regulations shall be deemed to
28 be an emergency and necessary for the immediate preservation of
29 the public peace, health, and safety, or general welfare.

